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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,594	01/28/2002	Michael P. Ronan		4093

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EXAMINER

MAI, TRI M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

S 1

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/058,594	RONAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tri M. Mai	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 18-22 and 35 is/are pending in the application.
- 4a) Of the above claim(s) 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14, 18-22 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claim 2 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/02/04.

Regarding the burden of search on the examiner, it is noted that each of the disclosed species requires a separate search exclusively for that species, e.g., each of the additional feature in claims directed to that species must be searched exclusively before patentability of these claims are ascertained. It is noted search and additional consideration on each claim requires additional time and effort.

### ***Specification***

2. The amendment filed 08/12/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The specification is objected for having a new embodiment. This is a new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Drawings***

3. The proposed drawings dated 01/15/04 has been disapproved for showing new matter. Inter alias, the original disclosure does not support the following:

The extent of portion 42, and the width of portion 42

The thickness of portions 55, 56, 11, 15, and the dimension of portions 8 and 9 are not consistent with the disclosure.

4. In view of the disapproval of the drawings, the drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drawings must show every feature of the invention specified in the claims. Therefore, the printed material in claim 1, the various coating material must be shown, the adhesive in claim 1, and the uncoated stripe going through the knock-outs, the coating on the panel having the punch scores in claim 3 on the first panel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. Claims 1-14, and 18-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, the original disclosure does not teach the knockout being defined by an absent of any coating material. Regarding claim 14, the original does not teach the blank having an adhesive. This is a new matter rejection.

6. Claims 3, 14, and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, it is unclear where is the coating material on the first panel. The new proposed figure 10 does not show this either.

Claim 14 recites a plurality of knockout defines by the lack of coating material. However, the claim recites an uncoated stripe extending through the knockouts. The result of the uncoated stripe would result in one uncoated knockout area, not a plurality of knockout as previously recited. Furthermore, it seems that the blank does not container adhesive, only on the final container.

***Claim Rejections - 35 USC § 102/103***

7. As best understood view of the 112 matters above, claims 14, 18, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buttery (3281054) in view of Buttery

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(3281059). Buttery '054 teaches a blank with coatings on both sides (col. 5, ln. 5-10; col. 4; ln. 40-75). Note the excluding the areas on the adhesive strip (col. 5, ln. 7) and on the outer portion at the glue areas (col. 4, ln. 71). Buttery does not mention the cut score extending only partially through the thickness. Buttery '059 teaches that it is known in the art to provide cut score extending partially through the thickness (col. 5, ln. 11). It would have been obvious to one of ordinary skill in the art to provide the cut score extending partially through the thickness to open the container more easily.

Buttery '059 further teaches the plurality of uncoated knockouts can be substitute by a stripe 17 (col. 4, ln. 46, 63). It would have been obvious to one of ordinary skill in the art to provide a stripe in Buttery 054 as taught by Buttery 059 to provide the an alternative sealing strip.

Regarding claim 18, it would have been obvious to one of ordinary skill in the art to provide the punch score  $\frac{1}{2}$  of the thickness to provide the desired depth of the punch score.

8. As best understood view of the 112 matters above, claims 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thresher et al. (5947368) in view of Buttery (3281059). In Fig. 25, Thresher teaches a blank with coating with a first panel 24, and second panel 60. Thresher states that area 220 is patterned out of the artwork so that releasable lock tab. Thresher does not mention portion 24 is coated. Buttery 059 teaches that it is known in the art to provide coating on the entire outside of the blank except the glue area. It would have been obvious to one of ordinary skill in the art to provide coatings except portions 300 to enhance security. Furthermore, It would have been obvious to one of ordinary skill in the art to provide cut score extending partially through the thickness at portions 300 to open the container more easily.

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Regarding claim 19, panel 24 is the adhesive panel as claimed.

9. Claims 14, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cassidy (5029714). Cassidy teaches a first and second panels 34 and 28. The first panel having a plurality of punch scores extending half way. A second panel having a surface at least being partially coated with a coating material (abseal areas 46), and knockouts (absent of abseal) on portions 50 and the white areas above portions 50.

With respect to the stripe, portion 50 and the white areas above portions 50 together resemble a stripe area going through the scores across lines 52.

10. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy (5029714) in view of Kienlen (2259822). It would have been obvious to one of ordinary skill in the art to provide adhesive being applied in a straight line in Cassidy to facilitate manufacturing of the container easily.

11. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buttery(3281054) in view of Buttery (3281059), and further in view of Hopwood et al. (4643315). Buttery '054 teaches a blank with coatings on both sides (col. 5, ln. 5-10; col. 4; ln. 40-75). Note the excluding the areas on the adhesive strip (col. 5, ln. 7) and on the outer portion at the glue areas (col. 4, ln. 71). Buttery does not mention the cut score extending only partially through the thickness. Buttery '059 teaches that it is known in the art to provide cut score extending partially through the thickness (col. 5, ln. 11). It would have been obvious to one of ordinary skill in the art to provide the cut score extending partially through the thickness to open the container more easily.

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It is noted that the inside can be coated with releasable coating such as wax (col. 5, ln. 25), and ink in solid color.

With respect to the print inside, it would have been obvious to one of ordinary skill in the art to provide the printing inside in Buttery '054 as taught by Hopwood to provide instruction.

12. Claims 1, 2, 3, and 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Struble (3187976) in view of Buttery et al. (3281059) or Buttery et al. (3281054). Struble teaches a blank having a joint including a first panel 52 having a plurality of punch scores 60 extending only partially through the thickness (col. 2, ln. 26), a second panel 52 having a plurality of knockouts 58, and a coating (col. 2, ln. 24). Struble meets all claimed limitations except for knockouts are defined by the absent of the coating. Either Buttery '059 or Buttery '054 teaches that it is known in the art to provide a coating for a container except at the isolated adhesive area. It would have been obvious to one of ordinary skill in the art to provide knockouts at the adhesive area in Struble as taught by Buttery to facilitate better bonding.

With respect to the printed material on the inside, It would have been obvious to one of ordinary skill in the art to provide the printed material, i.e., the solid ink coating, on the inside in Struble as taught by Buttery '054 or Buttery '059 to provide the desired information for the contents and to provide additional information on the inside of the container.

#### ***Response to Arguments***

13. Applicant's arguments filed have been fully considered but they are not persuasive. The amended claims contain new matter and do not overcome the prior art as set forth above.



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***Conclusion***

14. The allowability of claim 4-13, and 21-22 cannot be determined in view of the new matter in the drawings, 112 matters, and pending drawing objections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai  
Primary Examiner  
Art Unit 3727

